

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-566V

Filed: September 18, 2017

UNPUBLISHED

ELAINE MORIARTY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Attorneys' Fees and Costs

William E. Cochran, Jr., Black McLaren Jones Ryland & Griffie, P.C., Memphis, TN, for petitioner.

Linda Sara Renzi, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Dorsey, Chief Special Master:

On May 12, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleged that she suffered a shoulder injury related to vaccine administration ("SIRVA") caused by her October 2, 2013 influenza ("flu") vaccination. On June 19, 2017, the undersigned issued a decision awarding compensation to petitioner based on the parties' stipulation. (ECF No. 31.)

On August 30, 2017, petitioner filed a motion for attorneys' fees and costs. (ECF No. 35.) Petitioner requests attorneys' fees in the amount of \$27,896.80 and attorneys'

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

costs in the amount of \$1,712.49. (*Id.* at 1.) In compliance with General Order #9, petitioner filed a signed statement indicating that petitioner incurred no out-of-pocket expenses. Thus, the total amount requested is \$29,609.29. Respondent filed no response.

The undersigned has reviewed the billing records submitted with petitioner's request. On March 24, 2016, Mr. Cochran billed 1.7 hours of travel time at his full hourly rate. (ECF No. 35-2, p. 4.) On March 25, 2016, he billed an additional 1.7 hours of travel time at a full hourly rate. (*Id.*) Notwithstanding the fact that Mr. Cochran was noted to be working on preparation and review while traveling, the undersigned reduces Mr. Cochran's rate by 50% for these hours.³ See, e.g., *Hocraffer v. HHS*, No. 99-533V, 2011 WL 3705153, at *24 (noting that "Special masters consistently award compensation for travel time at 50% of the billing rate in the Vaccine Program."). This results in a reduction of \$603.50. In the undersigned's experience, the request otherwise appears reasonable, and the undersigned finds no further cause to reduce the requested hours or rates.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards the total of \$29,005.79⁴ as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel William E. Cochran, Jr., Esq.

The clerk of the court shall enter judgment in accordance herewith.⁵

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Although Mr. Cochran noted that he was billing for only half of his actual hours travelled (ECF No. 35-2, p. 4), his travel expenses reflect that this was due to splitting his travel between two different cases. (*Id.*, p. 19.)

⁴ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally *Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

⁵ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.